



November 4, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Re: CG Docket No. 02-278, DA 04-3187 – North Dakota – ccAdvertising/FreeEats.com

Dear Ms. Dortch:

I am the President and CEO of the Family Research Council (FRC) in Washington D.C. We are also a customer of ccAdvertising. FRC has used the proprietary Interactive Voice Response – Speech Recognition (IVRSR) ccAdvertising process nationwide in some crucial and important ways regarding results obtained in the most recent elections, as well as to influence and help direct legislation on the local, state and federal levels. For these reasons, FRC writes in support of a ruling by the Commission that N.D. Cent. Code § 51-28-02 does not apply to the use of prerecorded message technology in connection with interstate calls.

We appreciate the opportunity to comment on a matter that affects our operations. *“FRC is focused on the protection and advancement of the cultural and spiritual freedoms that as Americans we uniquely enjoy. In order to effectively demonstrate to local, state or federally elected officials what their constituents believe and want, FRC must be able to survey voters, recruit volunteers and contributors, identify supporters, and turn out these supporters on election day or get them to effectively communicate with the appropriate officials regarding pending bills or legislation. Telephone calls, particularly those that make use of prerecorded messages and voice-recognition technologies are highly cost-effective in accomplishing many of these objectives. Because the vendors and consultants, like ccAdvertising that provide these services often are located in a different state than the one where the election will take place or the legislation will be considered, many of these political activities are being carried out by means of interstate calls.”*

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FRC, and the efforts we choose to employ in the data acquisition and voter identification process, should not have to meet multiple legal standards when making interstate calls that use prerecorded message technology. In such cases, compliance with the Commission's rules governing the use of prerecorded message technology should suffice.

We agree with the Commission's own statement last year that it was the clear intent of Congress in enacting the Telephone Consumer Protection Act to create uniform national rules, and the Commission's conclusion that those who engage in nationwide or multi-state telephone campaigns are substantially burdened when inconsistent rules are applied to their campaigns. See 68 Fed. Reg. 44144, 44155 (July 25, 2003). We further believe that a political campaign's compliance with the Commission's rules governing the use of prerecorded message technology should render lawful the use of such technology in connection with interstate calls. Neither North Dakota or any other State whose laws do not contain the exemptions for prerecorded messages found in 47 C.F.R. § 64.1200 (e.g., Arkansas, Montana, and New Hampshire) should be able to apply their laws to interstate prerecorded-message calls that comply with the TCPA.

In short, the Commission should rule that state laws imposing more restrictive requirements upon telephone calls using prerecorded messages, such as N.D. Cent. Code § 51-28-02, do not apply to interstate calls that comply with the prerecorded-message provisions of 47 C.F.R. § 64.1200.

Sincerely,

A handwritten signature in black ink, appearing to read "A. PERKINS". The signature is stylized with a large, looped initial "A" and the name "PERKINS" written in all caps.

Tony Perkins

President

ARP/njk